IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2128 OF 2007

Yogesh Prabhakar Kotkar .. Petitioner.

V/s.

1. State of Maharashtra through its Secretary, Tribal Development Department, Mantralaya, Mumbai -32. and others. .. Respondents.

Mr.K.N.Khandekar for the Petitioner.

Mr.R.D.Rane, Govt.Pleader for the Respondents.

CORAM : F.I. REBELLO AND R.M. SAVANT, JJ.

DATED : 03rd APRIL, 2007.

P.C. :- (Per R.M.SAVANT,J.)

. By this petition filed under Article 226 of the Constitution of India, the petitioner challenges the order dated 22nd February, 2007 passed by the Scheduled Tribe Certificate Scrutiny Committee, Kokan Division, Thane; by which order the petitioner's tribe claim as belonging to Mahadeo Koli has been rejected.

2. The petitioner has joined the services of the

Respondent Nos. 4 and 5 as security guard some time in the year, 2000 on a temporary basis. It appears that the petitioner thereafter was appointed as a probationer in the year, 2003 for a period of three years, which probationary period, according to the petitioner, has come to an end in the year, 2006. It is the case of the petitioner that the petitioner's services were sought to be regularised on the condition that the petitioner would produce the validity certificate. The petitioner's caste certificate, obtained by him from competent authority, was, therefore, referred to the Caste Tribe Scrutiny Committee. The petitioner had filed writ petition No. 2711 of 2006, seeking a direction that the committee should be directed to decide the tribe claim of the petitioner within the stipulated time. The said petition came to be disposed by this court by its order dated 20th October, 2006 by which order, the Scrutiny Committee was directed to decide the petitioner's tribe claim within six months.

3. The proceedings regarding the tribe claim of the petitioner thereafter commenced. The petitioner filed various documents before the said committee. It is significant to note that inrespect of the near relations of the petitioner i.e.cousin grand father and uncles, the school record discloses the caste as 'Koli'. It can

also be seen from the school record of the petitioner's father Prabhakar Narayan Kotkar that his caste is mentioned as Hindu Mahadeo Koli. Insofar as the petitioner's father is concerned the word 'Mahadev' has been written in different ink and different handwriting. Therefore, the committee has rejected the said document filed by the petitioner in support of his caste claim. In respect of his other relations, as mentioned above, i.e. cousin grand father, two uncles and other relatives, the primary school record showed their caste as 'Son Koli'. The said record is for the year 1925 to 1943 and therefore, has rightly been held, to have a great probative value by the committee. On the basis of the said record, the committee came to a conclusion that the petitioner's tribe claim as belonging to the Mahadeo Koli, cannot be sustained.

4. Insofar as, the traits, characteristics, god, goddess are concerned, opportunity was given to the petitioner and his father. On the basis of the information given to them wherein they have mentioned the community's occupation as fishing and the statement is made before the vigilance officer, namely, that the surnames in their community as Chunekar, Varsolkar, Bhagat, Patil, which do not belong to Mahadeo Koli tribe as also the way and manner of dressing in the community,

the committee has come to the conclusion that the traits, characteristics, etc., which have been disclosed by the petitioner and his father also belonging to Koli which is other backward class till 1994 and a special backward class thereafter.

5. Taking into consideration the aforesaid facts and circumstances, in our view, the Committee has rightly come to the conclusion that the petitioner has failed to substantiate his tribe claim.

6. A grievance was also sought to be made by the petitioner that a proper opportunity has not been given to the petitioner for substantiating his tribe claim. It is significant to note that the petitioner had filed writ petition No. 2711 of 2006 in which directions came to be issued by this court to the Committee to decide the caste claim within six months. Pursuant to the said direction, the hearing was fixed vide show cause notice dated 12.11.2996 and the petitioner was asked to remain present with parents and other elderly persons on 05.12.2006. The petitioner had requested for time on 05.12.2006 and thereafter, was again called for hearing on 11.01.2007. The petitioner had again sought adjournment by communication dated 09.01.2007. In our view, therefore, there is no substance in the said

grievance of the petitioner.

7. In our view, therefore, no case for interference in the extraordinary jurisdiction of this court under Article 226 has been made out and the petition is, therefore, dismissed.

(F.I.REBELLO,J.)

(R.M.SAVANT,J.)

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